

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

STRYKER CORPORATION and
HOWMEDICA OSTEONICS CORP.,

Plaintiffs,

File No. 1:05-CV-51

v.

HON. ROBERT HOLMES BELL

XL INSURANCE AMERICA INC.,
formerly known as WINTERTHUR
INTERNATIONAL AMERICA
INSURANCE COMPANY, and TIG
Insurance Company,

Defendants.

O P I N I O N

This matter is before the Court on Plaintiff's motion (Dkt. No. 243) to correct or amend the Final Judgment entered on September 30, 2010, (Dkt. No. 241). In the context of this Court's prior determination that Defendant XLIA had satisfied its liability to Plaintiff, (Dkt. No. 196), and upon resolution of the last remaining issue in favor of Defendant XLIA, (Dkt. No. 240), the Court entered judgment "in favor of the defendant." (Dkt. No. 240.) The September 9, 2010, Final Judgment closed the case given the satisfaction of all obligations by the defendants and the absence of any remaining issues. It was not intended to abrogate any prior rulings by the Court.

Out of apparent fear that the Court's succinct Final Judgment would cast doubt on the Court's January 8, 2009, Amended Partial Judgment (Dkt. No. 162) and October 7, 2009, Order and

Partial Judgment, (Dkt. No. 196), Plaintiff now moves the Court to correct or amend the Final Judgment to incorporate the prior rulings. Such clarification should not be necessary. However, Defendant TIG has given life to Plaintiff's nightmares by taking up Plaintiff's suggestion and arguing that the Court's findings of liability are moot in light of Defendant XL's settlement payment. Not so. Should the Court's findings of liability take on new significance in light of decisions on appeal, they survive. As Plaintiff notes, this possibility is real and creates a "legally cognizable interest." *Los Angeles County v. Davis*, 440 U.S. 625, 631 (1979). The Court's partial judgments are not moot. To say so would invite inefficiency and waste of judicial resources.

The Court does not deem it necessary to enter an extended amended Final Judgment. However, in accordance with this opinion, an Addendum to the Final Judgment will be entered referencing and explicitly preserving the Court's prior rulings in this case.

Dated: January 4, 2011

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
UNITED STATES DISTRICT JUDGE